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REMARKS

Claims 1, 4, 5, 7-14, 16, and 18-20 were rejected under 35 USC §102(e)
as being anticipated by Kaplan, et al.. This rejection is vigorously traversed by
the Applicant. The present invention claims a method of tagging each digital
message with a priority, and using overlay software to select the best route.
Route in this context is defined in the specification as the network itself or
combinations of networks, not the route within a specific network. This is
software that is actually added to the message itself. The present invention does
not define a scheme for selecting the best route within a network but rather uses
the tag to determine which network best meets the expectation of the tag. The
premise for the presently claimed invention is that a given network can and does
meet its advertised characteristics. Based on these advertised characteristics,
the message is routed to the network that best meets the tagged expectations
(user chosen routing priority criteria). The present invention does not add
intelligence to a given network itself. The present invention assumes neither a
smart or dumb network, it only assumes a network will operate as advertised.

Kaplan, et al., teaches a method of manipulation of digital messages by
determining or assessing the available routes to determine which route best
meets the prioritized criteria from the user. In addition, Kaplan, et al., discusses
testing or validating the route as did Iwata. The method of the Kaplan, et al.,
patent assumes that at least one property of the data to be transferred is
analyzed and includes the step of measuring one variable parameter for at least
one path. From this analysis, the method of the Kaplan, et al., patent determines
which path should be used. In addition, the Kaplan, et al., patent
envisions choosing a path that provides an optimal set of characteristics.
Kaplan, et al., like Iwata, uses an active system to select a route.

As previously discussed the present patent application claims a simple
way of tagging each message, reviewing the tag through an overlay software and

sending the message via a route that best meets the tagged priority based on the "advertised" expectations of the route. The present patent application claims no optimization, the overlay software only chooses a route which is closest to the tagged prioritization. The present claims focus on the selection of a Datalink Service Provider and an avionics routing method for individual digital messages.

In independent claims 1 and 14, the feature of tagging and the basic concept of overlay software and how they are utilized to select a Datalink Service Provider is specifically included. Neither of these core concepts are discussed or implied in the Kaplan, et al., patent. Kaplan, et al., teaches that user priorities are stored in memory and automatically accessed as required. These priorities are then weighted by a multiplier based on certain criteria. See column 6, lines 29-42. In addition, Kaplan, et al., validates or tests the route, as taught by Iwata, the prior art cited by the Examiner in the previous office action. Kaplan, et al., does not discuss or imply the use of any type of tag. In the present claims, a user manually selects his prioritization criteria based on the advertised route criteria. No validation or testing takes place. No weighting takes place; the user uses the advertised criteria of the route as provided by the Datalink Service providers. The prioritization criteria is not kept in a memory, but is manually selected by the user from a list or brochure provided by the different Datalink Service providers. The route expectations are part of an overlay software which reviews each message tag and determines which advertised route best meets the tag. "Tag" as defined in the specification is like a flag. For example, the overlay software reviews each message tag and if the tag is "hypothetically" red, all the messages that are tagged red are sent via a first route. If the tag is blue, all the messages tagged blue will be sent via a second route. Kaplan, et al., or the combination of Kaplan, et al., and any of the other cited prior art does not teach or imply this unique combination of features. In addition to the arguments set forth above, an affidavit by the inventor Ralph Coleman Hedden is provided. From the significant differences as set forth between the present invention and the cited prior art and the features in the claims that are not discussed or implied

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in the prior art, it is evident that the independent claims are allowable. Due the allowability of the independent claims, the dependent claims rejected under this section (claims 2-5, 7-13, 15, 16 and 18-20) are also allowable.

Claims 2, 3 and 15 were rejected under 35 USC § 103(a) as being unpatentable over Kaplan, et al., in view of Kung, et al. These are dependent claims, and due to the allowability of the independent claims, these claims are also allowable.

Having responded to each and every objection and rejection raised by the Examiner, it is believed that the patent application is now in condition for allowance, and such allowance is respectfully requested. In the event the Examiner continues to reject the claims, the applicant respectfully request that the affidavit of Ralph Coleman Hedden be entered for appeal purposes. If the Examiner has any questions or suggestions for expediting an allowance in this matter, the Examiner is invited to call the undersigned collect.

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The Commissioner is authorized to charge any fees or credit any
overpayment under 37 CFR §§ 1.16 and 1.17 which may be required during the
entire pendency of the application to Deposit Account No. 01-1125.

                                        Respectfully submitted,

                                        Ralph Coleman Hedden

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